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In the summer of 1995, the court heard testimony from expert witnesses, including molecular biologists and population geneticists. The court allowed for closing memorandums while taking the matter under advisement. The court's ruling is dated October 16, 1995. Delay was occasioned by an anticipated publication of the National Research Counsel (NRC) report, that was due out in September but apparently will not be out until December 1995.

There were a number of issues presented by both sides which needed to be addressed; however, the main issues in the court's view were:

1. Does the Arizona Department of Public Safety DNA laboratory follow the generally accepted protocol in the relevant scientific community for DNA RFLP testing?
2. Does the modified, or interim, ceiling method formulated by the National Research Counsel of the National Academy of Sciences meet the Frye test of general acceptance in the relevant scientific community?
3. Does the Fixed Bin method of calculating statistics meet the Frye Test of general acceptance in the relevant scientific community?
4. Does the proposal of Doctor Bruce Weir, the state's expert on population genetics, which employs the use of an FST calculation or corrections to Fixed Bin calculation along with the use of a likelihood ratio and an upper confidence level, meet the Frye Test of general acceptance in the relevant scientific community?
5. Should expert testimony be allowed in the form of qualitative opinion of the "meaning of a match" without the use of statistical calculations?

The court found that the principles and theories underlying DNA analysis in forensic labs are generally accepted in the scientific community, and that DNA RFLP procedures in particular meet the Frye Test of general acceptance as well.

(cont. on pg. 2) 

Consolidated DNA Ruling

by Raymond Vaca, Jr., Trial Attorney

Over the past year Judge Ronald Reinstein has been overseeing a Consolidated DNA Frye Hearing. The cases included several high profile matters pending in Maricopa County, involving private criminal defense attorneys and one case from the Public Defender's Office, my client's. Our defense team was led by Michael S. Reeves and Stacey Gottlieb.

For a detailed description of DNA analysis or the RFLP techniques of measuring sequences of DNA material you may find guidance in *State v. Bible*, 175 Ariz. 549, 858 P.2d 1152 (1993); *State v. Hubbert*, 170 Ariz. Adv. Rep. 17 (App. 07/26/94); *State v. Bogan*, 188 Ariz. Adv. Rep. 31 (App. 04/11/95); *State v. Boles*, 196 Ariz. Adv. Rep. 6 (App. 08/31/95); *State v. Johnson*, 192 Ariz. Adv. Rep. 19 (App. 1999). A more thorough (and relatively easy to understand) scientific description is found in K. Kreliling, DNA Technology and Forensic Science, 33 Jurimetrics Journal 449 (Summer, 1993).

I. Arizona DPS DNA Lab Protocol

The defense questioned whether RFLP analysis of DNA could be reliably and effectively transferred to forensic casework. The court held that it could and that per *State v. Bible*, the Arizona trial courts no longer needed to hold Frye Hearings regarding the general acceptance of the DNA theory, the principles underlining DNA testing, or the Cellmark Laboratory match criteria.

Defense questioning of the DPS laboratory testing included whether any forensic laboratory work in DNA testing should be accepted in court because proficiency testing is not rigorous enough, and that the validation studies do not validate that the protocol is accurate in doing RFLP analysis. The court found that throughout

The court points out that attacks on lab analysis error, individual case matching, or lab "slop" are matters to be handled by the trial court . . . they go to the weight and not the admissibility of the evidence.

the United States the FBI and Cellmark protocols are generally accepted in the relevant scientific community. The DPS protocol is very similar to the FBI's with three main differences:

1. The DPS lab uses one additional probe than the FBI;
2. The gel length used by DPS is longer than the one used by the FBI (16cm to 14cm);
3. DPS does not use ethidium bromide as an electrophoresis buffer, while the FBI lab does.


The court found that not only does the DPS lab follow the protocol used in the relevant forensic scientific community for DNA RFLP testing, but the DPS protocol and techniques constituted improvements on other laboratory standards.

Finding that the DPS lab tests and protocol are generally accepted, the question then becomes whether the given tests in a particular case were properly performed. That determination must be made on a case-by-case basis. The court points out that attacks on lab analysis error, individual case matching, or lab "slop" are matters to be handled by the trial court. If they are raised as issues, they go to the weight and not the admissibility of the evidence.

II. The Modified Ceiling Method

The Modified Ceiling Method is an ad hoc, non-scientific accommodation to the courts so that DNA-matched evidence can be used. It purports to be a conservative compromise on an interim basis that will always benefit the defendant.

Prior to the Ceiling Method, calculations used by forensic labs followed what was called the "Product Rule." However, it failed to take into account the possibility of a population substructure. The Ceiling Method was proposed by the NRC as a more conservative method of calculation and assumes that there is a substructure. This method also contemplates the use of a data basis of 100 random samples from each of 15 to 20 ethnic populations. It is modified because the forensic labs did not have large enough data bases.

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for The Defense is the monthly training newsletter published by the Maricopa County Public Defender's Office, Dean Trebesch, Public Defender. *for The Defense* is published for the use of public defenders to convey information to enhance representation of our clients. Any opinions expressed are those of the authors and not necessarily representative of the Maricopa County Public Defender's Office. Articles and training information are welcome and must be submitted to the editor by the 10th of each month.

It was, and is, the state's intent to use the Modified Ceiling Method for calculating random match probability. It is to help define what a DNA "match" means as far as admissibility in court, i.e., what is the probability of a random match within the population?

The court, relying on *State v. Johnson*, 192 Ariz. Adv. Rep. 19 (App. filed 06/02/95), found that the Modified Ceiling Method calculation of the frequency of a DNA RFLP profile is generally accepted in the forensic scientific community. "The modified ceiling method intentionally overestimates the mathematical odds of coincidental match so that the chances of someone being unjustly convicted on the basis of a DNA test are reduced virtually to zero giving the benefit of every conceivable doubt to the defendant."

III. Fixed Bin Method

The state attempted to introduce another statistical method known as the Fixed Bin Method. The Fixed Bin Method compensates for even the remote possibility of substructure. However, the court deems the effects of population substructures to be either minimal or non-existent. The court felt that the Fixed Bin Method did not satisfy the Frye Test of general acceptance in the scientific community for much the same reasons as the Product Rule. The court did hold open the possibility that the Fixed Bin Method might be used as an addition to the Modified Ceiling Principle. However, the court found that multiple statistical methods would be too confusing to juries at this time. The court, however, would be willing to revisit the issue upon the publication of the new NRC report, if there is a more definite statement.

IV. Qualitative Opinion Of The Meaning Of A "Match" Without The Use of Statistical Calculations

The ruling starts, "It seems abundantly clear to this court that the time has come to abandon the theory that a match without a number is meaningless." It goes downhill from there.

The court found persuasive the majority opinion in *Bogan*, and dissent in *Boles*, in finding that qualitative expert opinion testimony regarding the meaning of a match should be admissible. Based on the court's findings as to the Modified Ceiling Principle, the court found that the qualitative testimony may be used in lieu of or in addition to the statistical calculations.

Reasoning that it is well accepted in the scientific community that if there is a match over four Loci, the probability of a match or random match is exceedingly small, with over five Loci the probability of a random match falls to virtually zero.

The court orders as follows:

"The state or defense may present qualitative expert testimony regarding the 'meaning of a match' without reference to any statistical calculations. That testimony may be in the form of whether the probability of a random match is extremely remote (given a reliable multiple Loci match), the experience of the expert as to whether he or she is aware of any random matches at four or five Loci of unrelated individuals, and whether to a reasonable degree of scientific certainty one evidence sample matches another.

Good news! After publication of the NRC report in December the court may order a supplemental hearing based on the recommendations of the NRC. Bad news, however--it in no way affects the court's current findings or provides a reason for delay on any of the current cases. Which leads to the last question, will there be a happy Christmas for all? Ω

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Forensics Today--Fingerprints, cont.

by David C. Moller, Sr., Lead Investigator

Last month, I discussed the different patterns on fingerprints, how these patterns provide for a fingerprint classification and filing system, and the way that prints are matched using the individual points of identification. This month, I will discuss how latent prints are developed and lifted, and how long latent prints normally last.

Our clients often are linked to a crime by nothing more than a single latent fingerprint lifted from the crime scene. Latent, or "hidden," fingerprints are a transfer of a mixture of natural secretions emitted from the glands on the skin, as well as contaminants that may have been picked up and adhered to the elevated ridge details on the fingers, hands or feet. These secretions (sweat, salts, amino acids, oils) and contaminants (dirt, blood, grease, moisture) may transfer to a surface to create the latent print.

(cont. on pg. 4) ☞

Many variables affect whether a recoverable latent print will be left on an object. 1) The surface of the object can be a major factor. It may be porous (paper, cardboard, raw wood, skin, etc.), or non-porous (glass, glossy painted surfaces, metals, hard plastics, etc.). In many instances, the surface may not be flat, or may be too dirty to leave a recoverable latent print. 2) The subject who left the print may have twisted the finger as he touched the surface which would ultimately produce a smudge. This will often destroy most or all of the ridge details or points of identification. 3) The subject for one reason or another may not transfer any secretions or contaminants.

Latent fingerprints must be developed with chemicals, powders, or light treatments prior to being lifted or photographed. There are many techniques for the developing and processing of latent prints. The most common method is using a soft brush and "black powder." Because of the variety of surfaces, black powder is not always the best choice for processing. The technician may have a difficult surface (rock, door knob, highly colored soda can, etc.) which would require a different treatment. Other methods commonly used include:

Magnetic powders. This medium works well on paper, glass, or plastic, but poorly on metals. The magnetic powders are applied with a magnetic wand, like a brush. The excess metal shavings are picked up and removed with the wand. The remaining powder shavings are carefully brushed into the ridge detail to develop the print.

Ninhydrant. This is a chemical treatment used to process paper items. It is sprayed onto the surface. Ninhydrant reacts with any amino acids present in the latent print and develops a purple fingerprint. The process usually takes about 24 hours unless it is accelerated by applying heat, such as a clothes iron.

Iodine crystals. When subjected to heat, iodine crystals will vaporize. This vapor will react with any oils present in the latent print, and develop into a yellow-brown fingerprint.

Silver nitrate. This chemical is a method usually used last, as it destroys any traces of fats, oils, and amino acids present in the latent print. Silver nitrate reacts with the salts found in perspiration. The resulting developed fingerprint will be a reddish brown.

Cyanoacrylate (super glue). This is a very popular treatment. The glue, when heated, vaporizes and affixes itself to most hard surfaces. The resulting fingerprint turns white and can be permanent. Large areas can be treated in this manner (room, car interior, etc.). The


fingerprints can be photographed or powdered and lifted over and over, if necessary.

Light. Two of the light treatments are the "laser" and "alternate light sources" (also known as "forensic light sources"). The laser highlights the fingerprints. These prints may have defied the use of print powders and chemicals. The illuminated fingerprints are photographed. Alternate (or forensic) light sources were developed as a less expensive method to detect prints. These sources are high-powered lights which generate an intense light. Differently colored barrier filters are placed in front of the light beam to block all but the desired light wavelengths. In conjunction with the light, the object or surface is treated with different types of fluorescent chemicals or powders which may produce a fluorescent fingerprint. This can be lifted or photographed.

In some cases, the fingerprint left behind is not latent. The fingerprints found on soft or dirty surfaces may be "plastic" or "visible" prints (clay, wax, blood, dirt, grease). These prints can be seen without treatment. They are usually photographed, as processing of the surface may destroy the fingerprint.

Once a fingerprint is developed by one or several of the preceding methods, the print should be photographed to document the print's original location. This documentation is important, should the print be damaged during the lifting process. Once photographed, the technician then needs to lift the print off the surface. This usually is done by using clear transparent tape. The adhesive side is applied to the latent print with gentle, even pressure. The tape is peeled slowly from the surface with the powdered print attached. The tape then is applied to an equal-sized piece of cardboard backing that contrasts to the color of the print powder used for lifting. The back of the lift should be numbered and marked with the crime, location, date, time lifted, who lifted it, and what surface or object it came from. When photographs are used, a photo log should be prepared, or the back of the photo should contain the same information as the lift.

These are several of the most popular techniques that technicians may use and later refer to during an interview regarding how they processed, developed, and lifted the latent prints. There are many other methods, as well as new processes being tested.

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The only proven method to establish the age of the print is if someone can date when the surface or object was introduced to the scene, or can attest to when it was last cleaned.

The age of a fingerprint often cannot be determined. A technician may use the phrase "it was a fresh print" because it quickly developed with powder or chemicals. A technician should not speculate on the age of the print based on such data. The only proven method to establish the age of the print is if someone can date when the surface or object was introduced to the scene, or can attest to when it was last cleaned. The aging process of fingerprints is affected by environmental conditions (humidity, rain, heat, cold, dust, etc.), disturbances to the area, and the surface from which the print is being lifted. Generally, fingerprints begin to deteriorate shortly after their transfer to the surface, due to oxidation, evaporation, and absorption. Most prints can last several days or weeks under normal conditions, but can occasionally last for years. Plastic prints can remain indefinitely if left undisturbed.

Next month I will discuss some of our client misidentifications, and procedures used to obtain their release from the charges or jail. Ω



A "Hot" List for the Warm Body

By Tom Klobas, Trial Group Supervisor

One of the "pains" of Public Defender work is being saddled with the duty of covering a morning criminal calendar for a trial division. It is a necessary requirement for a law firm of our size just due to the number of cases, the frequency of trials, vacation schedules, illnesses, and the manner in which cases and clients tend to appear, disappear and reappear again.

Frankly, the attention given by individual deputies to this chore ranges from exceptional to pathetic. With increased caseloads and cantankerous judges, the need for a representative of the office to provide the court assistance and information regarding our cases has never been greater. In my conversations with judges and court staff, the ability of a deputy to competently carry out his or her court-coverage responsibilities is consistently noted and appreciated. It ranks right up there with punctuality, preparedness, and advocacy skill.

With an eye toward moving the warm body performances to a higher plane, here are some suggestions for improving court-coverage skills.

1. Be punctual. Know when and where the calendar will start. Leave enough time to confer with

clients, especially those on the chain, for whom you will be handling court matters.

2. Check the court-coverage box for files before you leave for court. You may avoid a rude surprise, an angry judge, and a panicky telephone call back to the office.

3. Always obtain a copy of the day's calendar before you go to court. This will permit you to identify through checking with records (through your secretary) the identity of who is assigned to those cases for whom the court shows the attorney to be "Public Defender."

4. Confer with clients whom you will be representing on behalf of other attorneys. A major complaint of our clients is that their attorney was not there and some stranger stood up when the case was called. A brief word in advance would have prevented this surprise and preserved the client's confidence in our representation.

5. Inform the court staff which matters are ready, which attorney will be delayed, and for which case you will be appearing. They will love you for it as you will make their jobs that much easier.

6. Represent the office on those matters which appear without prior notice. These may include bench warrant returns or instances where we are appointed to replace existing counsel. Refer to the court's file if necessary to obtain more information. Then let your group supervisor know when these appeared and what action the court took as often this will necessitate retrieval of an old file, reassignment of the case or creation of a new file.

7. Represent clients on behalf of other attorneys as instructed by them. A word of caution: it is not acceptable that this representation should involve complex matters, especially sentencings, for which you could not provide adequate representation. The court must be told that this is office policy and deviations may cut to the core of effective and professional representation. The only justified exception would be when a continuance might delay a client's release from custody.

8. Once the court calendar is completed (or all remaining matters are properly covered), enter the appropriate information in the case log and return the file to the assigned attorney as soon as possible.

Certainly these suggestions will not cover every possible contingency. However, they will go a long way to assure both courts and clients that we not only know what we are doing, but how to go about doing it. That is the essence of professionalism. Ω

Computer Technology and Criminal Defense

by Richard Gissel, Investigator

Artificial intelligence, PCs, LAN, cobol, bits, bytes, viruses, and worms. These are terms most people recognize as computer related. There is no doubt that computers touch every aspect of our lives. However, law enforcement, in particular, has become more and more dependant on computer technology.¹ This opens new and yet unaddressed problems in defending our clients--especially, when we must convince a jury that a machine can make a mistake or that some type of technology is unreliable.

Police departments are spending enormous amounts of their yearly budgets on computer technology. For example, police patrol vehicles in the Phoenix area have been equipped with computer data terminals for years. However, these terminals have become even more powerful as new computer networks have come on-line. At first glance, this would seem like a good thing since it should help eliminate mistakes. However, as with anything created by man, computer systems can and do make mistakes. Such a mistake occurred in an Arizona case which was recently decided by the U.S. Supreme Court.

In *Arizona vs. Evans* (115 S. Ct. 1185 (1995)), the U.S. Supreme Court held the fourth amendment's exclusionary rule does not require suppression of evidence gained during arrests made on the basis of computer errors by clerical court employees. In this case, a Phoenix police officer arrested the defendant during a traffic stop when the patrol car's computer data terminal (CDT) showed a warrant for his arrest. A subsequent search of the defendant's car revealed a bag of marijuana and he was charged with possession. The defendant moved to suppress the marijuana as fruit of an unlawful search because the warrant had been quashed before his arrest but court employees had left the warrant in the computer database by mistake.

The Arizona Supreme Court granted the motion to suppress, reasoning the application of the exclusionary rule would serve to improve the efficiency of recordkeepers in the criminal justice system. The U.S.

Supreme Court reversed, concluding the exclusion of evidence was not required because court personnel were responsible for the computer's inaccurate records.

The Court concluded that the application of the exclusionary rule would have no significant effect on court employees responsible for informing police that a warrant has been quashed because court clerks are not part of the law enforcement team and have no stake in the outcome of criminal prosecutions. The U.S. Supreme Court did not address the issue of whether the exclusionary rule would apply if a police employee made the computer error. Situations like this will grow as computer technology becomes a high priority for federal agencies like the U.S. Justice Department.²


In 1989, the United States Justice Department began project NCIC-2000, a new computer database.

With this system police officers are able to identify fugitives and missing persons by placing the subject's finger on a fingerprint reader in their patrol car. The reader transmits the image to the NCIC computer at FBI Headquarters, and within minutes, the computer forwards a reply to the officer. A printer installed in patrol cars allows officers to get copies of a suspect's photograph, fingerprint image, signature, and tattoos, plus artist conceptions and composite drawings of unknown subjects. The hope is that these functions will eliminate false arrests based on erroneous identifications.³

. . . the U.S. Supreme Court held the fourth amendment's exclusionary rule does not require suppression of evidence gained during arrests made on the basis of computer errors by clerical court employees.

The use of computer systems to identify potential suspects has continued to grow well beyond systems like the Automated Fingerprint Identification System (AFIS) which the Phoenix Police Department has used for years. Currently, the Glendale Police Department and a few others have what is called "Mug-Shot Imaging System" (MSIS). The system uses a series of photos to create an image from witnesses' descriptions. The MSIS has been successfully used in high-profile cases like the Oklahoma City Bombing. The problems arise when the police come to rely on the image as a photograph rather than as a reference tool, which has occurred several times.

For instance, in San Francisco a defendant was identified as an armed robbery suspect based on an MSIS imaging. Witnesses were shown an image and then identified the defendant in a photo line-up. The eyewitnesses did not help create the image and thought it

(cont. on pg. 7) 

was an actual photograph of a suspect. The defendant was jailed for six months until it was learned he was incarcerated on another charge at the time of the offense. Since proper police procedure was not followed, the image did nothing but taint the eyewitnesses' accounts. It could be argued that as computer imaging improves, cases of mistaken identity will become few and far between. However, established procedures to show these computer images to witnesses and victims must be followed or results such as these will continue.⁴

Computer technology changes almost weekly, and these new advancements will continue to be adopted by law enforcement agencies. The next trend will be computer simulations of actual crimes. The law will never be able to keep pace with new issues and abuses of the computer in the criminal justice system. We must keep apprised of new computer technologies in order to properly defend our clients.

¹FBI Web Page 8-19-95, Art. 112A, entry 14.

²FBI Bulletin (10/95), Supreme Court Cases: 1994-1995 Term.

³The Arizona Republic, 4-5-95, Section B1.

⁴Burk's Web Page 7-12-95, Art. 115, entry 1221. Ω



*The difference between the almost-right
word and the right word is . . .
the difference between the lightning bug
and the lightning.*

~ ~ Mark Twain

*The life of the law has not been logic;
it has been experience.*

~ ~ Oliver Wendall Holmes

Atlanta 1995: Theories and Themes

by Kristin Larish, Trial Attorney

The National Criminal Defense College held a Theories and Themes Seminar this past October 20 - 22 in Atlanta, Georgia. Seven attorneys went from our office. Lecturers included Stephen Rench, David Lewes, Andrea Lyon, and Sunwolf. The topics hit upon constructing a theory, developing a theme, storytelling, and brainstorming, brainstorming, brainstorming!!! It did not take very long to realize these attorneys were masters in the art form.

The three cases the participants were given were possession of cocaine with intent to distribute, murder, and aggravated assault. These cases have been recycled year after year, and provided an excellent framework for building openings, cross, and closing skills.

The lectures focused on developing a theme for a case, and then how to prove our theory to a jury. Pedagogically, the theory of a case is the legal defense of the case (i.e., self-defense), and the theme is the "story" we want the jury to hear. In our cases, it is the emotion that drives the theme.

Some examples of themes given were: in a case where defendant's mental health is an issue, "the defendant is a bridge in which too many have crossed"; in an accidental shooting/assault, "even a dog knows the difference between being stumbled over and intentionally kicked"; and a terrific approach for a self-defense case is to create an atmosphere where the victim is the author of his/her own death. Simply, the theory and theme of a case are what we want jurors considering over and over during deliberations.

More valuable ideas came from discussing the defense of a seemingly defenseless case. It becomes important in these cases to focus on the little "t" truths; either through the emotional, factual, or legal components in which jurors can relate. Our job and the jurors' job become easier when the focus is on the "truths" of common experiences.

Most seminars, such as this, emphasize the focus and dedication we need if we are to be successful in placing our clients in a better position in their lives. The impressiveness of the legal talent collected at the seminar, combined with the excitement of Atlanta, served as a reminder of the brilliance of the torch we need to carry for our clients. Ω

Letters

Editors' Note: The following letters to the Maricopa County Public Defender seem particularly timely as we look at our 30 years of service to the community. The letters are printed here with the permission of the authors.

October 2, 1995

Dear Dean:

Most of what you wrote in Volume 5, Issue 9 of "for the Defense" is accurate and well put!

However, you said to your staff that they are "...unappreciated by the community."

You are in error! You should have said that they are "...unappreciated by much of the community."

Some of the community do understand the fact that without your office, government would be unchecked. In substantial part, you, like the court, are a buffer between the potential for an oppressive government and the people. Each of us in the justice system plays an important role in the delicate balance necessary to maintain this great democracy.

Although daily your lawyers undoubtedly perceive their counterparts in the County Attorney's office as adversaries, indeed, frequently the "enemy", in my short time in this office, I believe that you and Mr. Romley are both equally dedicated in your efforts to maintain and improve the management of our justice system.

I thank and salute you, your predecessors and your staff for your attitude and presence which, although it is not without substantial difficulties, many of us do appreciate.

Sincerely,

Robert D. Myers
[Presiding Judge,
Superior Court of Arizona,
Maricopa County]

October 10, 1995

Dear Dean:

Thank you for sending me a copy of your annual report for fiscal year '93 - '94. While a bit dated, it reminded me how well your office is run. It is clear that you more than fulfill your mission. Having some knowledge of other indigent defense offices around the country I really believe yours is one of the finest.

In particular, over the last two years you've done a remarkable job under extremely stressful circumstances due to the County's budget problems. This has been achieved, I know, through great personal sacrifice by the employees of your office. I congratulate all of the members of your office, and in particular the attorneys, only because they are the ones I have the most contact with. I know they lay it on the line every day, without much appreciation from the public, and often not from their own clients. Their dedication and professionalism are a credit to the justice system.

I also applaud your willingness to steadfastly maintain your office's ethical responsibilities, at the same time realizing that all agencies of the County had to dig a little deeper. I hope that the County Administration sees that a fully staffed and reasonably funded Public Defender office will be more effective and still be cost efficient in the long run.

In addition to serving your clients and through them the public as well, your Training Division, administered by Christopher Johns, has provided an invaluable service to the criminal bar through the outstanding training seminars that have been given.

Finally Dean, thanks for the help you and your office have provided me. There's always been someone to step up, whether it's talking to a high school class, attending a meeting, serving on a committee, coming over on short notice to represent an indigent defendant, or providing new ideas for the justice system. If I have one hope for the near future, it's that some cases can be disposed of sooner so that defendants need not remain in custody unnecessarily. The time to disposition of cases in Superior Court has grown to an unreasonable length. That will take the cooperation of everyone in the criminal justice system, including judges.

Congratulations again for all you and your office do.

Sincerely,

Ron Reinstein
[Presiding Judge, Criminal Department
Superior Court of Arizona,
Maricopa County]

October Trials

September 11

Peg Green/Jim Cleary: Client charged with one count of first degree murder and one count child abuse. Investigator R. Gissel. Trial before Judge Hilliard ended October 24. Defendant was found guilty. Prosecutor O'Connor.

September 25

Mimi Allen: Client charged with armed robbery and disorderly conduct (dangerous). Trial before Judge O'Melia ended October 3. Charges dismissed. Prosecutor Mitchell.

Gary Bevilacqua: Client charged with 26 counts of theft and fraudulent schemes. Trial before Judge Bolton ended October 25. Defendant was found guilty on all counts. Prosecutor A.G. Stevens.

Ray Schumacher: Client charged with aggravated assault. Trial before Judge Scott ended September 29 with a hung jury. Prosecutor Smyer.

September 26

Cliff Levenson: Client charged with aggravated DUI and aggravated assault. Trial before Judge Ishikawa ended October 2. Defendant found guilty. Prosecutor Gann.

John Taradash: Client charged with trafficking in stolen property. Investigator J. Castro. Trial before Judge McDougall ended October 2. Defendant found guilty. Prosecutor Kane.

September 29

Steve Avilla: Client charged with aggravated assault. Investigator J. Allard. Trial before Judge Topf ended October 2. Defendant found guilty. Prosecutor Mason.

October 2

William Peterson: Client charged with one count of sexual abuse, two counts of sexual conduct with a minor, and one count of sexual assault. Trial before Judge Colossi ended October 6. Defendant received a judgment of acquittal on sexual assault charge and found guilty on other charges. Prosecutor Rapp.

October 3

Jerry Hernandez: Client charged with vehicular manslaughter. Investigator R. Gissel. Trial before Judge Armstrong ended October 10. Defendant found guilty. Prosecutor Baker.

October 4

John Brisson: Client charged with robbery. Trial before Judge O'Melia ended October 12. Defendant found guilty. Prosecutor Mitchell.

October 9

Russ Born: Client charged with burglary and aggravated assault. Investigator D. Beever. Trial before Judge Ryan ended October 11. Defendant found **not guilty** of burglary and aggravated assault; guilty of lesser included offense of trespass. Prosecutor Johnson.

October 10

Tim Agan: Client charged with aggravated assault. Trial before Judge McDougall ended October 12. Defendant found guilty. Prosecutor Feinberg.

Dennis Farrell: Client charged with aggravated assault. Trial before Judge Sargeant ended October 17. Defendant found **not guilty**. Prosecutor Vercauteren.

Jennifer James/Daphne Budge: Client charged with unlawful imprisonment (with two priors and while on parole). Trial before Judge Brown ended October 11. Defendant found guilty. Prosecutor Morden.


October 11

Jim Lachemann: Client charged with aggravated DUI. Trial before Judge Sticht ended October 13. Defendant found guilty. Prosecutor Smith.

Dan Sheperd: Client charged with two counts of aggravated assault (dangerous). Trial before Judge Hauser ended October 18. Defendant found guilty of lesser included charges--disorderly conduct. Prosecutor Incion.

October 16

Wes Peterson: Client charged with sale of methamphetamines and misconduct with a dangerous weapon. Trial before Judge Araneta ended October 17. Defendant found guilty. Prosecutor Winter.

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Tom Timmer: Client charged with burglary. Trial before Judge Hertzberg ended October 18. Defendant found guilty. Prosecutor Wendell.

October 17

Polly Houle: Client charged with three counts of aggravated assault (dangerous), possession of drug paraphernalia, and possession of dangerous drugs. Investigator D. Erb. Trial before Judge Sticht ended October 26. Defendant found guilty on two counts of aggravated assault; **not guilty** of one count of aggravated assault, but guilty of the lesser included disorderly conduct; guilty of possession of drug paraphernalia; and **not guilty** of possession of dangerous drugs. Prosecutor Howe.

October 19

Wes Peterson (advisory counsel): Client charged with sexual assault. Investigator M. Breen. Trial before Judge Ishikawa ended October 26 with a hung jury. Prosecutor Leisch.

October 24

Scott Wolfram: Client charged with two counts of aggravated DUI. Investigator L. Eager. Trial before Judge Jarrett ended October 27 with a hung jury. Prosecutor Righi.

October 26

Jerry Hernandez: Client charged with possession of dangerous drugs. Trial before Judge Barker ended October 30. Defendant found guilty. Prosecutor Hicks.

October 27

James Leonard: Client charged with DUI. Trial before Judge Passey (North Mesa Justice Court) ended October 27. Defendant found guilty. Prosecutor Gundacker.

October 30

Brad Bransky: Client charged with aggravated assault. Trial before Judge McDougall ended October 31. Defendant found **not guilty**. Prosecutor Feinberg.

Nancy Hines/Dan Carrion: Client charged with aggravated DUI. Investigator D. Erb. Trial before Judge Dunevant ended November 1. Defendant found guilty. Prosecutor Ainley. Ω

Bulletin Board

Personnel

New Law Clerks:

On November 6, four new law clerks started with our office: Corwin Townsend in Trial Group A, Ron Rosier in Group C, Marie Dichoso-Beavers in Group D, and Ingrid Miller in Juvenile. Alex Navidad remains in Trial Group B. All come from ASU's Law School.

Moves/Changes:

Paulette Kasieta was recently selected as the new Lead Investigator for Trial Group B. Ms. Kasieta replaces Brian Abernethy who now works at the Office of the Legal Defender.

Speakers Bureau

Steve Avilla, a new addition to the Speakers Bureau, will speak on December 01 to the Arizona Identification Council (police and sheriff's deputies training) on forensics testimony in homicide cases.

Carol Carrigan will speak on November 30 to a GED class at Sunnyslope Community Center on her background and the role of Public Defenders in the Criminal Justice System.

Jim Haas spoke at a Kiwanis Club breakfast meeting on November 01, addressing "An Overview of the Public Defender's Office and Indigent Defense."

Candace Kent represented the defense in a mock preliminary hearing conducted in Judge Lex Anderson's Peoria Justice Court on November 02 for the benefit of the Peoria Police Citizens Academy.

Clothing Closet

Tim Bein, Client Clothing Closet Manager, notes that the Closet is in dire need of **belts**, especially for men. Donations are tax deductible.

Post Script: All borrowers should make sure that they return any clothing and accessories taken from the Closet.

Miscellaneous

~ ~ CONTEST REMINDER ~ ~

for the Defense is conducting a contest for members of the Maricopa County Public Defender's Office from October 1995 through February 1996. Any MCPD employee may submit an original, unpublished, educational article of 200 words or more regarding criminal defense for use in the newsletter. If the article is accepted for publication (after a standard screening by the editor), the author automatically is entered in the contest. Articles need to be submitted by the 10th of the month to be considered for that month's issue. The first- and second-place prizes are two (2) tickets to a Phoenix Suns home game and a \$40 gift certificate for dinner at *Planet Hollywood*, respectively. See the newsletter staff for more information. Ω

Computer Corner

This column is designed to provide simple computer tips helpful to people in the legal field. These tips are fashioned for WordPerfect 5.1 in DOS. If you have any problems, questions or suggestions that you would like to share, please contact Ellen Hudak in Trial Group B (506-8331).

Splitting the Screen:

Sometimes it is quite useful to see parts of two documents at once on-screen. Or you may want to use the second document window to keep a list of notes to yourself. You may ask yourself, is it necessary to split my screen when I can easily switch to the other document? Well necessary might not be correct, but it will definitely be more convenient when needed. You may even want to make copies of the same document in both windows, but display different parts of the document in each window. This approach is especially useful when you work on long documents.

Before you consider the steps for splitting the screen in half, remember that you access the WordPerfect's menus through the function keys: **Ctrl, Alt, or Shift** in combination with **F1-F10** — or **F1-F12** if you have the Enhanced Keyboard. Splitting the editing screen illustrates the two choices that WordPerfect gives you for making menu selections. When, for example, you press Screen (**Ctrl-F3**), the following menu is displayed on the status line:

1 Window; 2 Line Draw; 3 Rewrite

To make a menu selection,

- Press the number next to a menu item, OR
- Press a letter, usually the first letter of the menu item

To split the screen, follow these steps:

1. Press Screen (**Ctrl-F3**).
2. Select Window (1).

The following prompt appears on the status line:

Number of lines in this window: 24

3. Type *11*, and press Enter.

Your screen should be split in half, with WordPerfect's tab ruler line displayed across the middle. The pointing triangles within the line represent the tab settings for your document. They also indicate which document you are in: they point down if you are in the lower document or up if you are in the upper document. The braces { } represent the margin settings. To Switch between windows (to move cursor between documents), press Switch (**Shift-F3**).

You may not want a 50/50 split, preferring instead to allow two-thirds of the screen for the primary document. To do this type *16* when the computer prompts you to enter Number of lines in this window.

To resize the window to a full-screen display, follow the preceding steps, but type *24* in Step 3:

1. Press Screen (**Ctrl-F3**).
2. Select Window (1)
3. At the prompt asking for number of lines in the window, type *24* and press Enter.

The window is now a full-screen display.

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